

House File 591

AN ACT
RELATING TO ESTATES AND TRUSTS AND INCLUDING RETROACTIVE AND
OTHER APPLICABILITY PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 633.273A **Disposition of failed
devise.**

Unless from the terms of the will the intent is clear and
explicit to the contrary, and except as provided in section
633.273:

1. A devise, other than a residuary devise, that fails for
any reason becomes a part of the residuary estate.

2. If the residuary estate is devised to two or more persons, the share of a residuary devisee that fails for any reason passes to the other residuary devisee or to the other residuary devisees in proportion to the interest of each in the remaining part of the residuary estate.

Sec. 2. Section 633.279, subsection 2, paragraph a, Code 2013, is amended by striking the paragraph and inserting in lieu thereof the following:

a. An attested will may be made self-proved at the time of its execution, or at any subsequent date, by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before a person authorized to administer oaths and take acknowledgments under the laws of this state, and evidenced by such person's certificate, under seal, attached or annexed to the will, in form and content substantially as follows:

Affidavit

State of.....)
County of.....) ss

We, the undersigned,, and, the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, declare to the undersigned authority that at the date of the instrument, we all knew the identity of each other; the instrument was exhibited to the witnesses by the testator, who declared it to be the testator's last will and testament and was signed by the testator or by another at the direction of the testator at, in the County of, State of, on the date shown in the instrument, and in the presence of each other as subscribing witnesses; that we, as witnesses, declare to the undersigned authority that in our presence the testator executed and acknowledged such will as the testator's will and that we, in the testator's presence, at the testator's request, and in the presence of each other, did subscribe our names thereto as attesting witnesses on the date of such will; and that the witnesses were sixteen years of age or older.

.....
Testator

.....
Witness

.....
Witness

.....
Subscribed, sworn and acknowledged before me by, the
testator; and subscribed and sworn before me by and
....., witnesses, this ... day of (month), ... (year)
.....

.....
Notary Public, or other notarial
officer authorized to take
(Stamp) and certify acknowledgments
and administer oaths

Sec. 3. Section 633.290, Code 2013, is amended to read as follows:

633.290 ~~Petition for probate of will~~ Petitions after death of testator.

~~1. At the time the will of a decedent is filed with the clerk, or thereafter,~~ After the death of the testator, any interested person may file a verified petition in the district court of the proper county for any of the following:

- ~~1. a.~~ To have the will admitted to probate.
- ~~2. b.~~ For the appointment of the executor.
- ~~c.~~ To request a hearing before the will is admitted to probate.
- ~~d.~~ To request a hearing before the appointment of the executor.
- ~~e.~~ For the production of the purported will of the decedent to be filed by the person believed by the petitioner to be in possession of the will.

~~2. A petition for probate may be combined with a petition for appointment of the executor, and any person interested in either the probate of a will or in the appointment of the executor, may petition for both~~ Petitions for any of the reasons specified in subsection 1 may be combined.

Sec. 4. Section 633.295, Code 2013, is amended to read as follows:

633.295 Testimony of witnesses.

The proof may be made by the oral or written testimony of one or more of the subscribing witnesses to the will. If such testimony is in writing, it shall be substantially in the following form executed and sworn to after the death of the decedent:

In the District Court of Iowa
In and for County
In the Matter of the Estate of

....., Deceased

Probate No.

Testimony of Subscribing
Witness on Probate of Will.

State of)
..... County) ss

I,, being first duly sworn, state:

I reside in the County of, State of; I knew the identity of the testator on the day of (month), ... (year), the date of the instrument, the original or exact reproduction of which is attached hereto, now shown to me, and purporting to be the last will and testament of the said, deceased; I am one of the subscribing witnesses to said instrument; at the said date of said instrument, I knew the identity of, the other subscribing witness; that said instrument was exhibited to me and to the other subscribing witness by the testator, who declared the same to be the testator's last will and testament, and was signed by the testator at, in the County of, State of, on the date shown in said instrument, in the presence of myself and the other subscribing witness; and the other subscribing witness and I then and there, at the request of the testator, in the presence of said testator and in the presence of each other, subscribed our names thereto as witnesses.

.....
Name of witness

.....
Address

Subscribed and sworn to before me this ... day of
(month), ... (year)

.....
Notary Public in and for
(Stamp) the State of

Sec. 5. Section 633.356, subsection 3, paragraph c, Code 2013, is amended to read as follows:

c. That the gross value of the decedent's personal property that would otherwise be distributed by will or intestate succession does not exceed twenty-five thousand dollars and there is no real property or the real property passes to persons exempt from inheritance tax pursuant to section 450.9 as joint tenants with right of survivorship.

Sec. 6. Section 633.575, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If the court determines upon application that it is appropriate or necessary, the court may order that the attorney appointed pursuant to this section be given copies of and access to the proposed ward's health information by describing with reasonable specificity the health information to be disclosed or accessed, for the purpose of fulfilling the attorney's responsibilities pursuant to this section.

Sec. 7. Section 633A.4504, subsection 3, Code 2013, is amended to read as follows:

3. Any claim for breach of trust against a trustee who has presented an accounting or report to a beneficiary more than one year prior to July 1, 2011 2000, shall be time barred unless some exception stated in this section applies which tolls the statute. Any claim arising under this section within one year of July 1, 2011 2000, shall be time barred after one year unless an exception applies to toll the statute.

Sec. 8. Section 635.1, Code 2013, is amended to read as follows:

635.1 When applicable.

When the gross value of the probate assets of a decedent subject to the jurisdiction of this state does not exceed one hundred thousand dollars, and upon a petition as provided in section 635.2 of an authorized petitioner in accordance with ~~section~~ sections 633.227, and 633.228, or section 633.290, subsection 1, paragraph "a" or "b", the clerk shall issue letters of appointment for administration to the proposed personal representative named in the petition, if qualified to serve pursuant to section 633.63 or upon court order pursuant to section 633.64. Unless otherwise provided in this chapter, the provisions of chapter 633 apply to an estate probated pursuant to this chapter.

Sec. 9. APPLICABILITY.

1. The sections of this Act amending sections 633.273A, 633.279, and 633.295 apply to estates of decedents dying on or after July 1, 2013.

2. The sections of this Act amending sections 633.290 and 635.1 apply to petitions filed on or after July 1, 2013.

3. The section of this Act amending section 633.575 applies to all judicial proceedings held on or after July 1, 2013, in which an order for the appointment of a conservatorship is sought or has been issued.

4. The section of this Act amending section 633A.4504 applies retroactively to all reports and accountings provided

by a trustee, unless an exception applies, to one year from July 1, 2000.

KRAIG PAULSEN
Speaker of the House

PAM JOCHUM
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 591, Eighty-fifth General Assembly.

CARMINE BOAL
Chief Clerk of the House

Approved _____, 2013

TERRY E. BRANSTAD
Governor